

Letter of Findings Number: 02-20130042
Corporate Income Tax
For the Year 2011

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ISSUE

I. Corporate Income Tax–Airport Development Zone Exemption.

Authority: IC § 6-8.1-5-1; IC § 8-22-3.5-15.

Taxpayer protests the adjustments made to its corporate income tax liability.

STATEMENT OF FACTS

Taxpayer is a C corporation operating in Indiana. The Indiana Department of Revenue ("Department") determined that Taxpayer did not report the proper amount of receipts in its Indiana receipts numerator. The resulting adjustment resulted in a proposed assessment of additional Indiana corporate income tax. Taxpayer protested the assessment, the Department conducted an administrative hearing, and this Letter of Findings results.

I. Corporate Income Tax–Airport Development Zone Exemption.

DISCUSSION

Taxpayer protests the imposition of corporate income tax. Taxpayer protests that the Department improperly adjusted its receipts factor. In particular, Taxpayer reported all its Indiana receipts on its Indiana corporate income tax return. However, when it listed its receipts percentage, it listed a lower percentage than the return otherwise indicated, with an entry "See Statement 2." The issues are whether Taxpayer is exempt from income tax on certain operations and—if so—what the proper reporting mechanism is for reporting the necessary adjustments.

The burden of proving a proposed assessment incorrect rests with the taxpayer, as provided under IC § 6-8.1-5-1(c).

Taxpayer asserts that it qualifies for tax exemption under IC § 8-22-3.5-15. That statute provides in relevant part:

(c) As an incentive to attract or retain qualified airport development projects to Indiana, for a period of thirty-five (35) years, beginning January 1, 1991, persons that locate and operate a qualified airport development project in an airport development zone in a consolidated city shall not incur, notwithstanding any other law, any state income tax liability as a result of:

- (1) activities associated with locating or retaining the qualified airport development project in the consolidated city;
- (2) the construction, modification, alteration, or completion of the qualified airport development project;
- (3) the employment of personnel or the ownership or rental of property at or in conjunction with the qualified airport development project; or
- (4) the operation of, or the activities at or in connection with, the qualified airport development project.

Taxpayer has provided sufficient information to conclude that it operates in a qualified airport development project (QADP) and qualifies for the Indiana corporate income tax exemption pursuant to IC § 8-22-3.5-15(c)(4). Therefore, Taxpayer's protest is sustained with regard to this issue.

Taxpayer has also requested guidance on the proper reporting procedure for the exempt portion of its income. Prior Department guidance issued to Taxpayer's predecessor in interest stated "[Parent's] income from operations at the [QADP] will be determined based upon revenue from these operations and expenses directly attributable to these operations." Taxpayer's reporting does not take into account this breakdown of revenue and expenses. Taxpayer should report the QADP activity separately as if the QADP activities were a separate company.

Taxpayer shall provide the revenue, expenses, sales by destination state or country, and the state to which the sales are attributed for income tax purposes for Taxpayer's location at the QADP. Taxpayer shall provide this information within thirty (30) days of issuance of this Letter of Findings; any additional time may be granted by the Department in its sole discretion. The Department shall recompute Taxpayer's income and exclusion based on the information provided. If this information is not provided, Taxpayer's protest is denied.

Any future reporting and calculation of the exclusion should include this information as part of a schedule with the return. Taxpayer should also include copies of any prior Department guidance (including this Letter of Findings) with the return as supporting documentation.

FINDING

Taxpayer's protest is sustained subject to verification of the exclusion amount.

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